

## REMARKS

In the Office Action dated November 16, 2006, the Examiner rejected claims 1, 5-11, and 13 under 35 U.S.C. §112 for failing to show the metes and bounds of the term limitation "substantially removed" as recited in claim 1. The Examiner then rejected all the claims under 35 U.S.C. §103 citing a combination of several references.

### New Claims

Claims 34-38 have been added. Claims 34 and 39 are independent claims while claims 35-38 depend from claim 34.

### Applicant's Arguments

Applicant has carefully reviewed the arguments presented in the Office Action and respectfully requests consideration of the newly added claims.

### Claim 34

Independent claim 34 recites a rack device for carrying elongated cargo vertically at the back of a vehicle with a top edge including a pair of spaced apart upstanding posts and a plurality of horizontal rails slid onto the posts forming a frame extending vertically from a bumper to the top edge of the vehicle. The rack is mounted to the bumper by a pair of spaced apart tension mounts supporting the posts and biasing the frame toward the vehicle back wall. The frame is supported spaced from the back wall by attached pad devices interposed between the frame and back wall. Multiple arms project rearwardly from respective rails and are positioned to receive the cargo in between the arms.

Claim 35 depends from claim 34 and further includes an open-topped utility tray fastened to the bracket mounting devices by a pair of stabilizer bars supporting the tray below the level of the bumper.

Claim 36 depends from claim 34 and claims arm couplers mounting the arms for slidable positioning along the horizontal rails.

Claim 37 depends from claim 34 and claims spring devices biasing the frame to the rear wall.

Claim 38 depends from claim 35 and includes a hitch system wherein a hitching member is coupled to the utility tray with one end hitched to a hitch mount on the bumper and the hitching member providing a second hitch mount on its other end for the mounting of a hitch post.

#### Claim 39

Claim 39 recites a rack device forming a vertically mounted, rectangular cargo frame mounted to the rear wall of a recreational vehicle with the upper extremity of the frame positioned adjacent the vehicle upper edge. The device includes at least a pair of upstanding posts and at least a pair of horizontal rails including rail connectors on the rail ends slidably attached to the posts with the rail connectors providing vertical adjustment of the horizontal rails along the upstanding posts. Bumper mounts are attached to the posts supporting the posts upright and mounted to the bumper and biasing the frame toward the rear wall. The device further includes laterally spaced apart support arms including arm connectors for slidable mounting and horizontal positioning of the arms along the rails.

The Applicant respectfully offers the following observations which she believes distinguish her invention from the cited art.

#### U.S. Patent No. 6,662,983 to Lane

This patent shows a multi-configurable rack using an "L" shaped member 3 attached to a string of extensions 8 to form a variety of right angle, open-ended configurations connected to the hitch of a vehicle to project the rack rearwardly

therefrom and optionally supports a folding platform 19. A pair of support arms 15 project rearwardly from a cross bar 12. Lane teaches using a minimal number of pieces (five metal pieces each consisting of two metal pieces welded together) to greatly simplify forming his rack system (Col. 2, lines 41-47).

Unlike Applicant's invention, Lane's rack system must use a hitch mount and an "L" member to carry cargo spaced and extended away from the vehicle rear (Claim 1, Col. 16, lines 36-38). Lane's hitch mounted system uses horizontal components projecting rearwardly biasing his rack away from the rear wall. Lane does not teach using a pair of spaced apart upstanding posts and a plurality of horizontal rails forming a frame biased toward the vehicle rear wall. In comparison, Applicant's invention includes multiple posts and rails that form framing extending from the bumper to the vehicle top edge and uses spaced apart bracket devices to mount the frame to the bumper and biasing the frame toward the rear wall. Pad devices are included interposed between the frame and rear wall providing a counterforce to the tension brackets maintaining the frame upright without striking the rear wall. Additionally, Lane's platform is carried at or above the level of the bumper (Figs. 12A-12T) and is flat and open-walled unlike Applicant's utility tray that is enclosed and below the level of the bumper which extends the vertical length available for supported objects. Lane teaches away from having vertical walls on his platform having instead a preference for an open platform to permit articles to hang over the platform edges (Col. 8, lines 32-34). Thus, to modify Lane's rack system to exclude his "L" member in favor of multiple pieces to form framing biased toward the vehicle rear wall and to enclose his platform would defeat the intended purposes of his invention, and therefore, impermissible for use under rejections based on § 103.

U.S. Patent No. 5,658,119 to Allsop et al.

This patent shows a bicycle support rack hitch mounted using a pivotally adjustable right angle joint supporting a platform above the joint assembly. Allsop proposes a rack that is restricted by attachment to a hitch 308 to avoid attachment to a

bumper (Col. 3 lines 15-16) and includes an open platform 318 with support arms 320 projecting therefrom. Allsop's rack and platform are supported at or just above the bumper level while providing clearance and unrestricted access to the rear doors of a vehicle (Col. 3 lines 16-18). Allsop's right angle joint is pivotally adjustable for rearward movement from an upright default position and held in place by latches 348 locking onto catches 346. Unlike Applicant's invention, Allsop does not teach biasing his rack toward the rear wall, nor including slidably attached support arms for retention of cargo, or using an enclosed platform (utility tray). In contrast, Allsop expressly teaches away from extending his rack system upwardly from the bumper to adjacent the top edge of the vehicle so that rear doors may be accessed and also teaches away from mounting his rack directly to the bumpers. Thus, to combine this reference with another that teaches elements Allsop lacks is not permitted.

U.S. Patent No. 5,337,932 to Griewahn

This patent discloses a fixed frame bicycle rack using a U-shaped member 30 supported by diagonal tubes 46 and 48 crossing within the U-shaped member 30 interior. Horizontal cross bars 32 and 34 and upper and lower arms 54 and 58 are bolted to vertical tubes 28 with the support arms bracing the tubes from the frame exterior. (Col. 2, lines 45-46 and Fig. 1). While Griewahn is less than explicit about why he bolts his horizontal members to the frame and incorporates diagonal tubes, it appears that the cross bars 32 and 34 and arms 54 and 58 and diagonal tubes 46 and 48 provide rigidity and stability to the vertical support tubes defining the lateral breadth of the frame and help maintain the overall U-shape of the member 30 by bracing the vertical support tubes.

Unlike Applicant's rack, Griewahn does not teach or suggest including slidable horizontal rails capable of vertical adjustment along the upstanding posts nor does he suggest slidable support arms for adjustable horizontal positioning along a horizontal rail. Griewahn's rails and support arms are fixed into place. To modify Griewahn to include vertically sliding rails would alter his points of stability. Also, to modify his rack to

include slidable support arms would require moving the support arms 54 and 58 inside the support tubes thus, eliminating a support. Thus, it would be improper to modify Griewhan's rack to suggest vertically adjustable slidable rails and slidable support arms since doing so would defeat the stability in his rack and thus, defeat one of his intended purposes.

U.S. Patent No. 4,815,638 to Hutyra

This patent shows a moped carrier incorporating a horizontally projecting carrier frame using support arms 24 and 40 to carry a track 56 for supporting the moped. A pair of vertically extending members 72 is coupled to the bumper by coupling members 78 and carries at their upper extremities horizontal support bars 74. The support bars of Hutyra appear to be independent lateral stabilizers lacking unified support configured for the purposes of maintaining the moped upright and preventing the moped from shifting or tilting. To achieve this, the support bars include hooks 90 to engage individual adjacent portions of the moped at various heights (Col. 3, lines 39-41). One skilled in the art attempting to use Hutyra's moped carrier to support elongated objects would find that the independent support bars would lack stability or tension in carrying an object therebetween. To add a horizontal rail between Hutyra's support bars would eliminate the ability to engage independent points of varying heights on a moped defeating Hutyra's intended use for the support bars. Thus, it would be improper to modify Hutyra's support bars where it is not suggested. Unlike Applicant's invention, Hutyra also fails to disclose a top rail adjacent the top edge of the vehicle, bracket devices biasing the frame toward the vehicle rear wall, pad devices interposed between the frame and the vehicle rear wall, and an enclosed utility tray thus, failing to include each and every element of Applicant's claims.

U.S. Patent No. 5,699,985 to Vogel

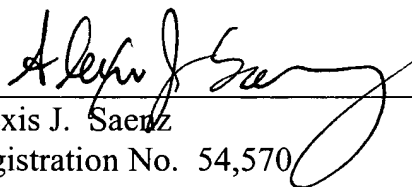
The patent to Vogel shows a rearwardly projecting, hitch mounted, horizontal structure with inwardly pivotal side members and a "Y"-shaped center support member with the center and side supports each requiring a hitch for mounting to the vehicle. Unlike Applicant's invention, the carrier to Vogel is horizontally mounted projecting rearwardly from the vehicle rear and does not include a frame with upstanding posts biased toward the vehicle rear wall, mounting bracket devices, horizontal rails slidable along the upstanding posts, pad devices, and slidable support arms for engagement of an object therebetween.

None of the references of record show Applicant's invention and any combination therefrom, whether or not obvious, would not produce Applicant's results.

It is believed the pending claims patentably distinguish from over the art and that this case is in condition for allowance. Early notice thereof is respectfully requested.

Respectfully submitted,

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